

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE:)
)
Andrew Todd Brooke, and) CHAPTER 13
Colette Joy Brooke,)
)
Debtors) CASE NO. 16-31316

AMENDED NOTICE OF HEARING ON MOTION

To all interested parties:

TAKE NOTICE that a Hearing on the **Amended Motion To Vacate Dismissal and Reinstate** in the above matter will be held on May 9, 2017 at 10:00 AM, at the United States Bankruptcy Court, Charles Jonas Federal Building, 401 W. Trade Street, Charlotte, North Carolina, or as soon thereafter as it can be heard by the Court.

Today is April 25, 2017.

/s/Jeanne Ann Pennebaker
Jeanne Ann Pennebaker, Esq.
Attorney for Debtor
NC Bar 39174
10130 Perimeter Parkway, Suite 200
Charlotte, NC 28216
(704) 602-5233

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE:

Andrew Todd Brooke, and
Colette Joy Brooke,

Debtors

) CHAPTER 13

) CASE NO. 16-31316

AMENDED MOTION TO VACATE DISMISSAL AND REINSTATE

NOW COMES Debtors herein, by and through counsel, and respectfully shows the Court:

1. The Debtors filed Their Chapter 13 petition on August 12, 2016, and said case was confirmed on November 12, 2016.
2. Debtors were operating under a future default provision for March 2017. Debtors missed the March trustee payment which triggered the automatic dismissal on April 7, 2017.
3. Debtors were confused as to the timing and location of their payments. They had a conversation with their mortgage company, Envoy Mortgage, and were told emphatically to make the mortgage payment directly to the mortgage company despite the wording of the order for Permanent Loan Modification [Doc34] stating that they were to resume trustee payments of \$2665 in February 2017 and the conduit was to resume for March 2017.
4. The order on the Trustee Motion To Dismiss or Modify stated they could resume their payments of \$2665 in March [Doc36]. Debtor could not make a full payment of \$2665 to the trustee in March after mistakenly making the mortgage payment of \$1482.59 on March 1, 2017.
5. Debtors have paid the Mortgage payment directly for February, March, and April 2017, and thus their default is not as large as it would otherwise be. A copy of proofs of payments are attached hereto as group Exhibit 1.
6. Debtors tendered a payment to the trustee of \$2665 on 4/24/2017 for the April trustee payment to be utilized if this case is reinstated.
7. Debtors have struggled with difficulties due to air conditioner repair, and a change of job for Andrew Brooke to a lesser paying job. But believes they can succeed going forward if they don't have to catch up further default.

8. Debtors do not want to have to refile and incur all new fees and costs nor try to be in a new Chapter 13 for another five years if they can complete this one.
9. The Debtors attorney is entitled to non-base fees of \$450.

WHEREFORE, the undersigned requests of the Court as follows:

1. That the Court vacate the dismissal and reinstate the debtor's Chapter 13 case.
2. That the Trustee adjust the claim of Envoy Mortgage to reflect the mortgage payments paid directly by the Debtors for February, March, and April of 2017.
3. That Debtor's attorney is awarded the non-base fee of \$450.
4. For such other and further relief as this Court deems just and proper.

Today is April 25, 2017.

/s/Jeanne Ann Pennebaker
Jeanne Ann Pennebaker, Esq.
Attorney for Debtor
NC Bar 39174
10130 Perimeter Parkway, Suite 200
Charlotte, NC 28216
(704) 602-5233

EXHIBIT

1

5100 Westheimer, Suite 320
 P. O. Box 460469
 Houston, TX 77056



February 27, 2017

ANDREW BROOKE
 COLETTE BROOKE
 11466 CEDARVALE FARM PARKWAY

MIDLAND, NC 28107

Re: ACH Draft - Oral Authorization
 Envoy Mortgage, Ltd. Loan Number: 2240203658
 Property Address: 11466 CEDARVALE FARM PARKWAY
 MIDLAND, NC 28107

Dear Customer(s):

This letter confirms your oral authorization on February 27, 2017 for Envoy Mortgage, Ltd. to originate an ACH debit entry to your bank account. The details of your oral authorization are as follows:

| | |
|----------------------|------------|
| ACH Draft Date: | 3/2/2017 |
| Amount of Debit: | \$1,482.59 |
| Checking or Savings: | Checking |
| Payment Due Date: | 2/1/2017 |

If the above information is incorrect, or if you did not authorize the ACH debit, contact us right away. Please be aware that payments taken over the telephone after 3:00 Central Time will be posted on the next business day.

If you have any questions, please do not hesitate to call our Customer Service Department toll free at 1-877-754-0545 between 8:00 am and 5:00 pm, Central Time, Monday through Friday.

Sincerely,

Envoy Mortgage, Ltd.

CS10



Envoy Mortgage, Ltd. is a debt collector. Unless you are in bankruptcy or received a bankruptcy discharge of this debt, Envoy Mortgage, Ltd. is attempting to collect a debt and any information obtained will be used for that purpose. If you are in bankruptcy or received a bankruptcy discharge of this debt, this communication is not an attempt to collect the debt against you personally, but is a notice of a possible enforcement of the lien against the collateral property.

Jeanne Ann Pennebaker, Esq.

From: Colette Brooke <colette.brooke@gmail.com>
Sent: Tuesday, April 25, 2017 11:55 AM
To: Jeanne Ann Pennebaker, Esq.
Subject: March - Envoy Mortgage, Ltd.: One-time Payment Confirmation

Follow Up Flag: FollowUp
Flag Status: Flagged

----- Forwarded message -----

From: <servicing@envoymortgage.com>
Date: Fri, Mar 31, 2017 at 4:37 PM
Subject: Envoy Mortgage, Ltd.: One-time Payment Confirmation
To: colette.brooke@gmail.com

Dear ANDREW BROOKE & COLETTE BROOKE,

Thank you for your payment request submitted on 03/31/17 3:37 PM CST.

Your confirmation number is 7CDFC1E0B3B5BDBDFBDECF2DC70F92D.
A one-time payment has been set up for the account listed below:

Loan Number: *****3658
For Payment Due: 03/01/17

Financial Institution: RIVER BANK & TRUST
Account Type: Checking
Routing/Transit Number: *****567
Account Number: *****3096

Payment Amount: \$1,482.59
Additional Principal: \$0.00
Additional T&I Amount: \$0.00
Unapplied Amount: \$0.00
Fee Amount: \$0.00

You have authorized a transaction in the amount of \$1,482.59 to be processed on 03/31/17.

Single payments made online after 5:00pm Central Time will be processed the next business day. **NOTE:
AUTO PAY FOR "ONE-TIME PAYMENT" AND "RECURRING DRAFT" CANNOT BE SCHEDULED ON
THE SAME DAY**

Please print this email for your records.

Jeanne Ann Pennebaker, Esq.

From: Colette Brooke <colette.brooke@gmail.com>
Sent: Tuesday, April 25, 2017 11:54 AM
To: Jeanne Ann Pennebaker, Esq.
Subject: April - Envoy Mortgage, Ltd.: One-time Payment Confirmation

Follow Up Flag: FollowUp
Flag Status: Flagged

----- Forwarded message -----

From: <servicing@envoymortgage.com>
Date: Fri, Apr 21, 2017 at 9:39 AM
Subject: Envoy Mortgage, Ltd.: One-time Payment Confirmation
To: colette.brooke@gmail.com

Dear ANDREW BROOKE & COLETTE BROOKE,

Thank you for your payment request submitted on 04/21/17 8:39 AM CST.

Your confirmation number is A764A365D882E0F269F01C3A78105163.
A one-time payment has been set up for the account listed below:

Loan Number: *****3658
For Payment Due: 04/01/17

Financial Institution: SUNTRUST BANK
Account Type: Checking
Routing/Transit Number: *****465
Account Number: *****9431

Payment Amount: \$1,482.59
Late Charge Amount: \$40.23
Additional Principal: \$0.00
Additional T&I Amount: \$0.00
Unapplied Amount: \$0.00
Fee Amount: \$0.00

You have authorized a transaction in the amount of \$1,522.82 to be processed on 04/21/17.

Single payments made online after 3:00pm Central Time will be processed the next business day. **NOTE: AUTO PAY FOR "ONE-TIME PAYMENT" AND "RECURRING DRAFT" CANNOT BE SCHEDULED ON THE SAME DAY**

Please print this email for your records.

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE:)
)
Andrew Todd Brooke, and) CHAPTER 13
Colette Joy Brooke,)
)
Debtors) CASE NO. 16-31316

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing AMENDED NOTICE OF HEARING ON MOTION and Amended Motion To Vacate Dismissal and Reinstate were served upon the following by depositing into the U.S. Mail or via ECF service through the US Bankruptcy Court:

Attached ECF Notice

Today is April 25, 2017.

/s/Jeanne Ann Pennebaker

Jeanne Ann Pennebaker, Esq.
Attorney for Debtor
NC Bar 39174
10130 Perimeter Parkway, Suite 200
Charlotte, NC 28216
(704) 602-5233

Label Matrix for local noticing
0419-3
Case 16-31316
Western District of North Carolina
Charlotte
Fri Apr 21 13:46:54 EDT 2017

Ashley Funding Services LLC
c/o Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

United States Attorney
227 West Trade Street
Carillon Bldg, Suite 1700
Charlotte, NC 28202-1675

Charlotte Division
401 West Trade Street
Charlotte, NC 28202-1633

CU1
1941 Abbott Rd
Anchorage, AK 99507-3448

Capital One
PO Box 71083
Charlotte, NC 28272-1083

Capital One Bank (USA), N.A.
PO Box 71083
Charlotte, NC 28272-1083

Capital One Retail Services
PO Box 7680
Carol Stream, IL 60116-7680

Carolinas Health Care System
PO Box 71108
Charlotte, NC 28272-1108

Cavalry SPV I, LLC
C/o Bass & Associates, P.C.
3936 E. Ft. Lowell Rd., Suite #200
Tucson, AZ 85712-1083

Cedarvale Farm Homeowners
c/o Kuester Management Group
PO Box 998
Commerce, GA 30529-0019

Credit Union 1
1941 Abbott Rd
Anchorage, AK 99507-3448

Envoy Mortgage
PO Box 660101
Dallas, TX 75266-0101

Envoy Mortgage, Ltd.
5100 Westheimer #320
Houston, TX 77056-5515

Furniture Row
c/o Capital One Retail Services
P.O. Box 7680
Carol Stream, IL 60116-7680

Internal Revenue Service
P.O. Box 7317
Philadelphia, PA 19101-7317

Internal Revenue Service
PO Box 7346
Philadelphia, PA 19101-7346

LabCorp
PO Box 2240
Burlington, NC 27216-2240

Medicredit
PO Box 1629
Maryland Heights, MO 63043-0629

North Carolina Department of Revenue
Bankruptcy Unit
P.O. Box 1168
Raleigh, NC 27602-1168

Novant Health
PO Box 602584
Charlotte, NC 28260-2584

RMB of North Carolina, Inc
409 Bearden Park Cir
Knoxville, TN 37919-7448

SETF
PO Box 70832
Charlotte, NC 28272-0832

State Employees Credit Union
Attn: Bankruptcy Dept
PO Drawer 25279
Raleigh, NC 27611-5279

State Employees Credit Union
PO Box 37369
Raleigh, NC 27627-7369

Synchrony/Amazon
PO Box 960013
Orlando, FL 32896-0013

Transworld Systems Inc.
507 Prudential Rd
Horsham, PA 19044-2308

Walmart/Synchrony
PO Box 530927
Atlanta, GA 30353-0927

World Omni Financial Corp. Its Successor and
Assigns
c/o Weltman, Weinberg & Reis Co LPA
323 W. Lakeside Ave Suite 200
Cleveland OH 44113-1009

Andrew Todd Brooke
11466 Cedarville Farm Pkwy
Midland, NC 28107-9315

Colette Joy Brooke
11466 Cedarville Farm Pkwy
Midland, NC 28107-9315

Jeanne Ann Pennebaker
Jeanne Ann Pennebaker, PLLC
10130 Perimeter Parkway
Suite 200
Charlotte, NC 28216-0197

Warren L. Tadlock
5970 Fairview Road, Suite 650
Charlotte, NC 28210-2100

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u) Envoy Mortgage Ltd.

(u) WORLD OMNI FINANCIAL CORP..

| | |
|---------------------|----|
| End of Label Matrix | |
| Mailable recipients | 32 |
| Bypassed recipients | 2 |
| Total | 34 |